



Paper No. 6

LEYDIG VOIT & MAYER LTD
TWO PRUDENTIAL PLAZA
SUITE 4900
180 NORTH STETSON STREET
CHICAGO IL 60601-6780

COPY MAILED

JUL 9 2001

In re Application of
Specht et al.
Application No. 09/514,711
Filed: February 28, 2000
Attorney Docket No. 203947
For: MOPS AND MOP COMPONENTS

**OFFICE OF PETITIONS
A/C PATENTS**

:
:
: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(a)
:

This is a decision on the renewed petition under 37 CFR 1.47(a), filed February 7, 2001.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on February 28, 2000 without an executed oath or declaration. Accordingly, on April 26, 2000, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on July 31, 2000, petitioner filed a petition for a two month extension of time and required fee, a declaration executed by joint inventor Specht, the surcharge, the petition fee, and the instant petition. A declaration of facts of Timothy Molek, the assignee of the invention, accompanied the petition. Mr. Molek states that he was unable to discover the whereabouts of Mr. Edgar Wagner, the non-signing inventor.

This petition was dismissed on September 7, 2000 for failure to prove the non-signing inventor could not be found or reached after diligent effort.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (4) above.

As to item (1), Rule 47 applicant has failed to show that the inventor refuses to join in the filing of the above-identified application. While petitioner has discovered Mr. Wagner's whereabouts, petitioner has not mailed a copy of the application papers to his last known address with a request that he sign the declaration for the patent application. The Declaration of Allen E. Hoover establishes that only a Declaration was sent to the last known address. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). Mr. Wagner must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioner can show that Mr. Wagner was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioner will have satisfied this requirement.

As to item (4), the last known address specified in the renewed petition lacks a zip code.

Pursuant to petitioner's authorization, Deposit Account No. 12-1216 will be charged \$890.00 for a three month extension of time fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

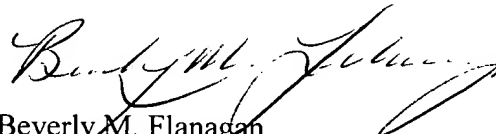
By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.



E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy